

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

SEGA OF AMERICA, INC.,

Plaintiff,

V.

CONSOVOY McCARTHY PLLC,

Defendant.

Case No. 1:25-cv-257

COMPLAINT FOR TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS AND DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Sega of America, Inc. (“Plaintiff” or “Sega”), brings this Complaint against Defendant Consovoy McCarthy PLLC (“Consovoy”) and alleges as follows:

PARTIES

1. Sega is a corporation organized under the laws of the State of California with its principal office located in Irvine, California. Sega is a wholly owned subsidiary of Sega Corporation, a company headquartered in Japan. Sega develops and markets video games in North America.

2. Consovoy McCarthy PLLC is a law firm and professional limited liability company. Consovoy has offices in Arlington, Virginia; Boston, Massachusetts; and Salt Lake City, Utah.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this suit pursuant to 28 U.S.C. section 1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.

4. Sega is a California corporation with its principal place of business in Irvine, California.

5. On information and belief, Consovoy is a citizen of the District of Columbia, Virginia, Maryland, Maine, Utah, Illinois, Tennessee, Texas, and North Carolina, based on its partners' states of domicile.

6. The parties are therefore completely diverse for purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332.

7. The amount in controversy is in excess of \$39,000,000, well above the jurisdictional minimum of \$75,000.

8. The Court has personal jurisdiction over Consovoy because the acts or omissions giving rise to Sega's claims occurred in Virginia and Consovoy regularly conducts business in Virginia.

9. Venue is proper in this Court under 28 U.S.C. section 1391(b) because a substantial part of the events or omissions giving rise to Sega's claims occurred in this District.

FACTUAL ALLEGATIONS

JAMS' Provision of Individual Arbitration Services

10. Over the last two decades, individual arbitration agreements between companies and consumers “have become commonplace.”¹ The reason for this is obvious: “Companies, consumers, and employees all benefit from [individual arbitration]” because it “reduces the cost of dispute resolution and makes it feasible for individuals to pursue modest claims that normally would be priced out of court.”²

11. To administer arbitrations, companies and consumers utilize arbitration providers. JAMS is one of “the most widely used consumer and employee arbitration administrators.”³ JAMS holds itself out as “the largest provider of alternative dispute resolution (ADR) services worldwide,”⁴ “the premier player in mediation,”⁵ and “the world’s largest alternative dispute resolution (ADR) provider.”⁶ According to its website, JAMS handles “over 19,000 cases annually.”⁷

12. Arbitration exists to provide “an expedient, efficient and cost-effective method to resolve disputes.” *Sobremonte v. Superior Court (Bank of Am. Nat. Tr. & Sav. Ass’n)*, 61 Cal. App. 4th 980, 996 (1998). Consistent with this, JAMS represents that it has the ability to “successfully resolve[] business and legal disputes by providing efficient, cost-effective and

¹ <https://institutelegalreform.com/wp-content/uploads/2023/02/Mass-Arbitration-Shakedown-digital.pdf> (last accessed January 6, 2025)

² *Id.*

³ *Id.*

⁴ <https://www.jamsadr.com/history> (last accessed January 6, 2025)

⁵ <https://www.jamsadr.com/> (last accessed December 28, 2024).

⁶ <https://www.jamsadr.com/about/> (last accessed December 28, 2024).

⁷ <https://www.jamsadr.com/about/> (last accessed December 28, 2024).

impartial ways” to resolve disputes⁸ and that its rules are “tailored to help attorneys streamline the arbitration process for a timely and efficient resolution[.]”⁹

13. A company and its consumers agree to use JAMS as their arbitration provider by including JAMS as the designated provider in an agreement between the company and the consumer.

14. In a typical agreement, if a dispute arises between the company and the consumer, either party may file a demand for arbitration with JAMS to administer the dispute. A dispute between the company and one of its consumers would qualify as a two-party matter under JAMS’ Schedule of Fees and Costs (“JAMS Fee Schedule”). The filing fee for two-party matters is \$2,000.¹⁰ This filing fee is non-refundable. Generally, this fee is shared between the two parties. If two consumers filed claims at the same time, the non-refundable filing fees required would be \$4,000, or \$2,000 per claimant. There is generally nothing problematic about JAMS requiring non-refundable fees when the number of individual claimants is small (and therefore manageable). That is true because, when the number of individual claimants is small, the filing fees are manageable and JAMS has the capacity and administrative capability to administer those disputes agreements in a timely manner.

Mass Arbitrations

15. This case, however, arises in the context of a “mass arbitration,” a new phenomenon that JAMS, by its own recent admission through its introduction of mass arbitration procedures and statements by its personnel, does not have the capability to manage like an

⁸ <https://www.jamsadr.com/online?tab=overview> (last accessed January 21, 2025).

⁹ <https://www.jamsadr.com/arbitration?tab=overview> (last accessed January 21, 2025).

¹⁰ <https://www.jamsadr.com/arbitration-fees> (last accessed December 28, 2024).

individual arbitration. In a mass arbitration, lawyers, largely through social media advertising promising “compensation”,¹¹ round up as many individuals as possible (often in the tens of thousands) who may (or may not) be subject to a particular company’s arbitration agreement. This recruitment process often specifically targets purported California residents in an effort to invoke certain peculiarities of California arbitration law and sorts them for claimants who may qualify for fee waivers (if approved by JAMS, the claimants fees are then shifted to the respondent). Then the lawyers simultaneously file all the arbitration demands on behalf of the individuals with the arbitration provider. The company is then required to pay all, or virtually all, of its own non-refundable fees and the claimants’ non-refundable filing fees, lest they be sanctioned under California law. Because the filing fee for each arbitration demand is often a few thousand dollars and the demands number in the thousands, the company is subject to tens of millions of dollars in non-refundable filing fees. Faced with the choice to pay the filing fees or settle with the claimants as a group for a smaller sum, the company often chooses to settle, and the claimants’ counsel walks away with a large payday without ever intending to or having to litigate the merits of the disputes.

16. Unsurprisingly, mass arbitrations have garnered a significant amount of criticism. In February 2023, the U.S. Chamber of Commerce Institute for Legal Reform issued an 80-page

¹¹ This social media signup process is computerized with little to no direct interaction between lawyers and their staff and the claimants. Instead, the claimants complete an online form or template often just checking options that may result in them being included in claims. Indeed, in many cases when the claimants are told they have filed arbitrations they end up surprised and unaware of this development. *See* Exhibits 23-27 in support of Exhibit A to Plaintiff Tubi, Inc.’s Motion for Leave to File Amended Complaint, *Tubi, Inc. v. Keller Postman LLC*, No. 1:24-cv-01616-ACR (D.D.C. Nov. 25, 2024), ECF No. 22.

report detailing the numerous issues arising from mass arbitrations.¹² And, in July 2023, the Civil Justice Association of California (“CJAC”) sent a letter to the State Bar of California, explaining how mass arbitrations can violate a myriad of ethical rules.¹³

17. For example, under ABA Model Rule 3.1, lawyers are required to “inform themselves about the facts of their clients’ cases and the applicable law and determine that they can make good faith arguments in support of their clients’ positions.” *See* ABA Model R. of Prof. Conduct 3.1, cmt. 2. The state bars of California and Virginia prescribe similar requirements. Under California Rule of Professional Conduct 3.1, a lawyer must have “probable cause” to “bring or continue an action.” Cal. R. of Prof. Conduct 3.1(a). Under Virginia Rule of Professional Conduct 3.1, a lawyer must “not bring or defend a proceeding . . . unless there is a basis for doing so that is not frivolous.” Va. R. of Prof. Conduct 3.1.

18. In a mass arbitration, for a plaintiffs’ firm, complying with these rules is virtually impossible because the number of clients is in the tens of thousands. The CJAC letter noted that businesses have faced arbitration demands brought on behalf of “fake or fictitious claimants,” “individuals who never authorized” filing the arbitration demand, or “individuals who were never consumers of . . . the defendant.”¹⁴

19. Making matters worse, to date, the law firms filing mass arbitrations have generally faced no consequences for violating these ethical rules. There is no mechanism similar

¹² U.S. Chamber of Commerce Institute for Legal Reform, *Mass Arbitration Shakedown: Coercing Unjustified Settlements* (Feb. 28, 2023), <https://instituteforlegalreform.com/wp-content/uploads/2023/02/Mass-Arbitration-Shakedown-digital.pdf>.

¹³ Letter from Jaime Huff, Vice President and Couns., Civ. Just. Ass’n of Cal., to Enrique Zuniga, Public Trust Liaison, State Bar of Cal. (July 6, 2024), <https://instituteforlegalreform.com/wp-content/uploads/2023/07/Cal-Bar-Letter-re-Mass-Arbitration-July-202315.pdf>.

¹⁴ *Id.*

to Federal Rule of Civil Procedure 11 in arbitration. Rather, lawyers filing bogus demands on behalf of made-up people or people who were never consumers of the defendant business can simply withdraw the arbitration demands without any repercussions.

20. JAMS and its arbitrators have recognized the inherent unfairness of mass arbitrations. JAMS has also publicly recognized that it is unable to administer mass arbitrations in a timely manner, thereby failing to uphold its end of the arbitration bargain.

21. For example, a search of JAMS' Neutral Directory reveals that, as of December 28, 2024, only 191 JAMS arbitrators are based in a California location and only 348 JAMS arbitrators are available to provide services in California.¹⁵

22. Of course, with just 348 JAMS arbitrators available to provide services in California, JAMS is unable to timely administer a mass arbitration if handled like individual arbitrations. Indeed, in a blog article posted on the JAMS website on May 2, 2024, JAMS arbitrator Clifford Bloomfield admitted that “a few hundred arbitrators would not be able to work through 50,000 individual arbitrations—or half or even a third of that number—in a reasonable amount of time.”¹⁶

23. Despite recognizing that it does not have the resources to administer mass arbitrations like individual arbitrations, JAMS has continued to charge non-refundable filing fees as if each claimant's demand was actually going to be arbitrated individually. JAMS is thus charging millions of dollars in fees, all non-refundable, when it knows it cannot provide such services on that scale.

¹⁵ <https://www.jamsadr.com/neutrals/search> (last accessed December 28, 2024).

¹⁶ <https://www.jamsadr.com/neutrals/search> (last accessed December 28, 2024).

24. Hoping to address this issue, on May 1, 2024, JAMS issued its Mass Arbitration Procedures and Guidelines (the “Mass Arbitration Procedures”). As JAMS itself recognizes, “[t]he filing of dozens, hundreds or even thousands of individual claims may create administrative burden and onerous fees, as well as delay and potential unfairness to all Parties, all of which may impair the integrity of the Arbitration process.”¹⁷ JAMS implemented its Mass Arbitration Procedures “[t]o alleviate that burden and those concerns”; per the Mass Arbitration Procedures, JAMS appoints a Process Administrator to “hear and determine preliminary and administrative matters in a Mass Arbitration” in order to more efficiently handle the litigation.¹⁸ The Process Administrator decides how to group or batch demands together for collective adjudication.¹⁹ In other words, the Mass Arbitration Procedures abandon the notion that each demand—in a pool of thousands of identical demands filed by the same counsel—will necessarily be adjudicated via individual non-refundable fees. The Mass Arbitration Procedures eliminate the initial \$2,000 per claimant non-refundable filing fee, requiring that defendant businesses now pay only a single initial \$7,500 invoice.

25. However, JAMS will only implement its Mass Arbitration Procedures “where the Parties have agreed to the application of these Procedures in a pre- or post-dispute written agreement.”²⁰ In other words, the JAMS Mass Arbitration Procedures do not automatically apply and JAMS does not apply them to claims initiated under agreements to arbitrate entered

¹⁷ <https://www.jamsadr.com/mass-arbitration-procedures> (last accessed December 28, 2024).

¹⁸ <https://www.jamsadr.com/mass-arbitration-procedures> (last accessed December 28, 2024).

¹⁹ <https://www.jamsadr.com/mass-arbitration-procedures> (last accessed December 28, 2024).

²⁰ <https://www.jamsadr.com/mass-arbitration-procedures> (last accessed December 28, 2024).

into before the inception of these procedures in 2024 or where the parties have not expressly agreed to the application of these procedures.²¹

26. In sum, as even JAMS recognizes, it simply lacks the capacity to handle a significant increase in its caseload of individual arbitrations. Yet, JAMS does not and did not notify would-be consumers of its services, like Sega, of its administrative limitations prior to the designation of JAMS as the arbitral provider or prior to the filing of any demand.

Sega's Arbitration Agreement

27. Sega is a developer and publisher of video games, including a series of mobile games based on its popular “Sonic the Hedgehog” character. Sega’s mobile games have been downloaded hundreds of millions of times.

28. Consumers who play Sega-published mobile games in the Sonic the Hedgehog series, which are downloaded from either the Apple App or Google Play stores, generally agree to the terms of Sega’s End User License Agreement (“EULA”). *See* Exhibit A.

29. Sega, however, also licenses “Sonic the Hedgehog” to third parties who publish their own mobile games, which can be downloaded from their own platforms. For instance, Roblox, one of the largest gaming websites in the world, is licensed to publish “Sonic the Hedgehog” games that are available for download on the Roblox platform. When consumers download Sega’s games from Roblox, and similar third-party platforms, they do not agree to the EULA.

²¹ Contrast this with the American Arbitration Association, which enacted similar mass arbitration procedures in 2024, but essentially made them automatically applicable based on the number of claims brought by a single law firm or group of lawyers. *See* <https://www.adr.org/sites/default/files/Mass-Arbitration-Supplementary-Rules.pdf>.

30. Section 19 of the applicable version of the EULA states that all claims between Sega and users of its published mobile games are subject to binding arbitration:

[A]ll claims arising out of or relating to this Agreement (including its interpretation, formation, performance and breach), our relationship with each other, or your use of the Product shall be finally settled solely by binding arbitration unless the claim is within the exceptions described below.

Exhibit A § 19.

31. Section 19 limits any arbitration or court proceeding to individual actions, prohibiting participation in “collective” or “consolidated” actions. Specifically, Section 19 states:

Class Action Waiver: The parties agree that any arbitration or court proceeding shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. As a result:

- YOU CANNOT BRING A CLAIM AGAINST SEGA AS A PLAINTIFF OR CLASS MEMBER IN A CLASS ACTION OR ANY OTHER COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ACTION
- AN ARBITRATOR CANNOT COMBINE YOUR CLAIMS AGAINST SEGA WITH ANY OTHER PERSON’S CLAIMS AGAINST SEGA INTO A SINGLE CASE

32. In addition, and in reliance on JAMS’ representations regarding its reputation and its ability to arbitrate disputes in a timely and efficient manner, Section 19 also designates JAMS as the arbitration services provider for disputes between Sega and users of Sega-published games. *See id.* § 19.

33. Sega’s inclusion of JAMS as the arbitration provider in the EULA, by expressly referencing JAMS as the provider in any agreement to arbitrate, consummated an agreement between Sega and JAMS to provide arbitration services.

34. Sega would not have entered into this agreement with JAMS to include it as the arbitration provider in the EULA if Sega had known that JAMS would be unable to accommodate a significant increase in its caseload of individual arbitrations.

Consovoy Prepares a Mass Arbitration Against Sega

35. In or around late 2023 or early 2024, Consovoy began the process of filing a mass arbitration against Sega.

36. Consovoy partnered with Troxel Law LLP (“Troxel”) to conduct a mass advertising campaign on social media to solicit users of certain Sega video games related to Sonic the Hedgehog.

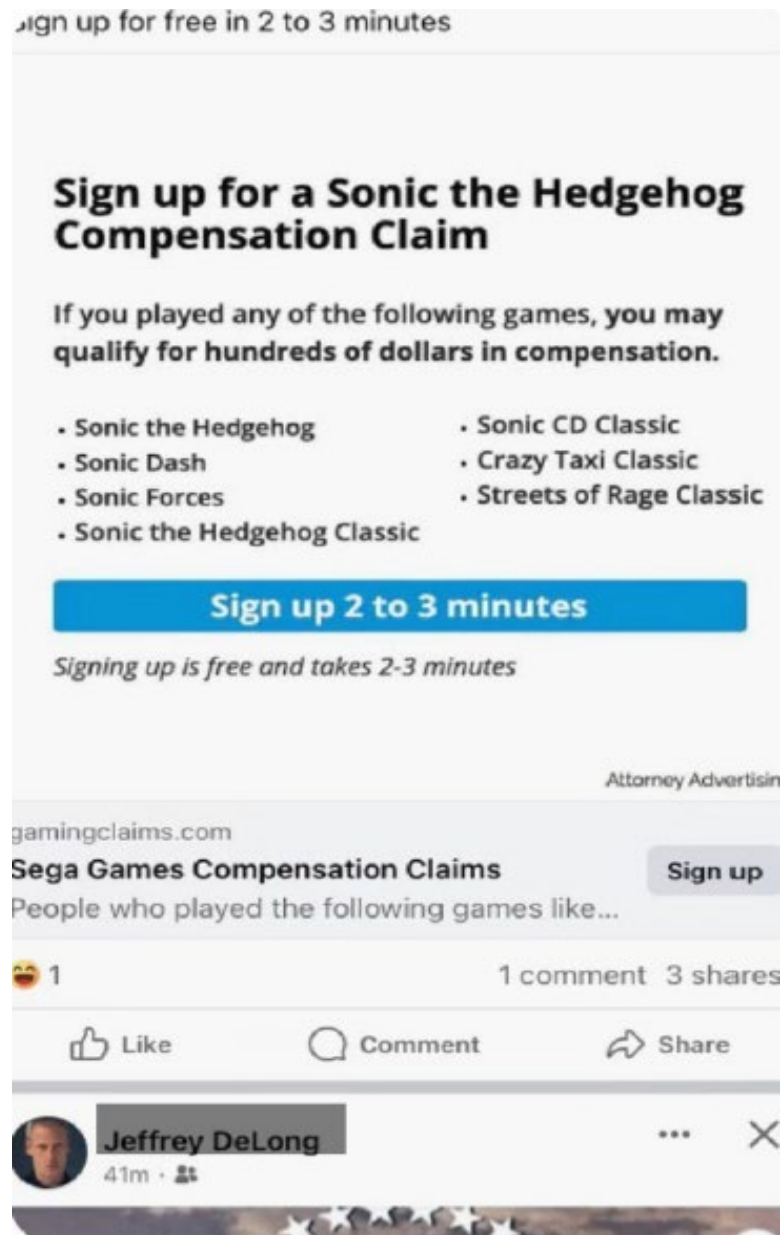
37. Troxel is a law firm based in New York that holds itself out as a reputable firm that secures hassle-free compensation for victims of corporate wrongdoing.

38. In reality, Troxel has an “F” rating with the Better Business Bureau (“BBB”). Many individuals that Troxel purports to assist have filed complaints with the BBB stating that the phone number listed on the firm’s website is inoperable and that they are never able to reach counsel, even to end the representation agreement effectuated through the online portal. This inability to reach Troxel is not surprising given that the address Troxel discloses as its offices, 195 Montague Street, 14th Floor, Brooklyn, NY 11201 actually resolves to a WeWork co-working facility.²²

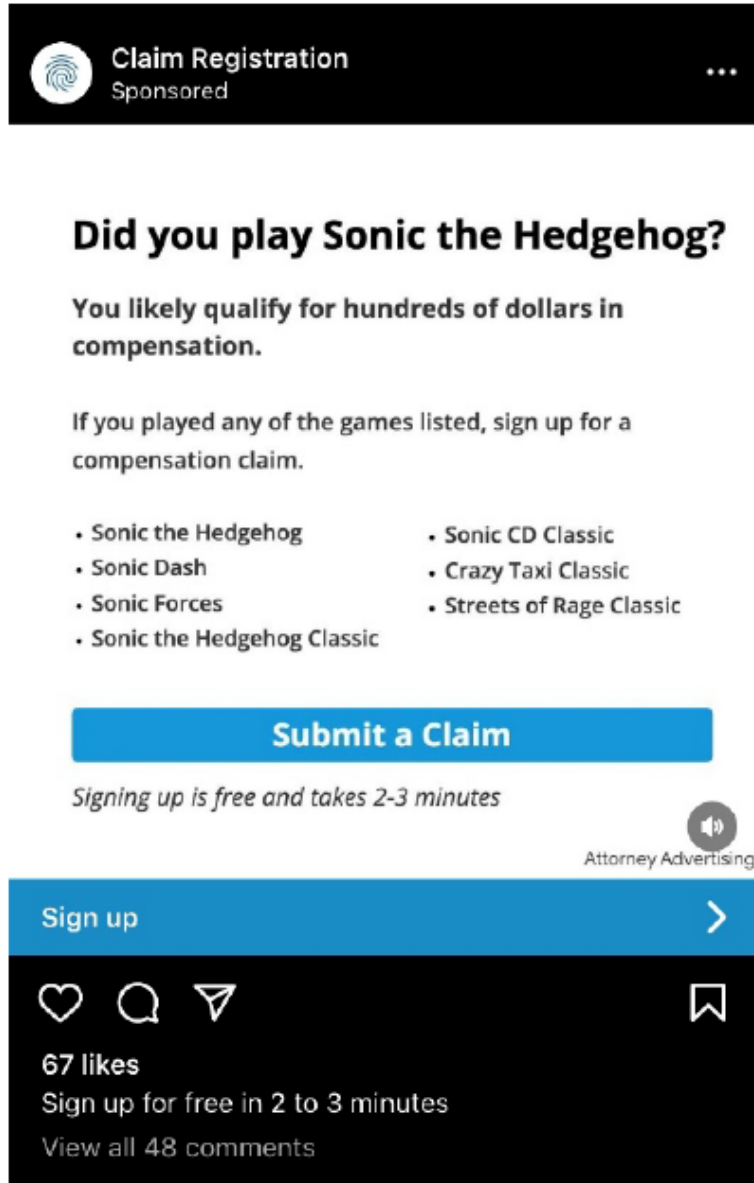
39. To help find potential claimants, Consovoy and Troxel purchased ads on Instagram, Facebook, and YouTube that dangled the possibility of hundreds of dollars to anyone who claimed they had played a Sega game.

²² https://www.wework.com/buildings/195-montague-st--new-york-city--NY?utm_source=Google&utm_campaign=Organic&utm_medium=Listings (last accessed January 8, 2025).

40. Sega has discovered at least some of the ads that internet users saw. For example, one Facebook ad encouraged users to “Sign up for a Sonic the Hedgehog Compensation Claim” to see if they qualified “for hundreds of dollars in compensation.”



41. An Instagram ad made a similar pitch: “Did you play Sonic the Hedgehog? You likely qualify for hundreds of dollars in compensation.”



42. If a Facebook or Instagram user clicked on the link, they were led to a window where the user was asked: (1) Have you played any of the Sonic the Hedgehog games on your phone or tablet? (2) Are you a permanent resident of California? (3) Have you seen any advertisements while playing Sonic the Hedgehog on your phone or tablet?

43. On information and belief, Consovoy did not ask (1) exactly which Sonic the Hedgehog game was played, (2) exactly when and where the game was played, (3) from what

platform the user obtained the Sega game, (4) when the Sega game was first downloaded onto their tablet or phone, (5) when the ads were seen, (6) what types of ads the potential claimant had seen, or (7) what type of product or service the consumer was then seeking to purchase that might have been the subject of discriminatory ads.

44. On information and belief, Consovoy did not require supporting documentation, screenshots, or app download records. Nor did Consovoy utilize standard due diligence procedures such as client interviews, or even a reasonable data scrubbing protocol, to minimize the risk of fraudulent or duplicate demands.

45. Consovoy, through Troxel, also maintained a website, www.gamingclaims.com, where it advertised that “[m]any people likely qualify for hundreds to thousands in compensation under consumer protection laws” if they played a Sega game. *See* Exhibit B. On information and belief, like the social media advertisements, the website did not require any supporting documentation to corroborate a user’s claim.

Consovoy Files Over 19,000 Individual Arbitration Demands With JAMS

46. On April 3, 2024, after amassing 19,541 Claimants from its social media campaign, Consovoy filed all 19,541 demands for arbitration with JAMS at the same time. It then sent a letter to Sega’s legal department notifying Sega that it had filed 19,541 arbitration demands against Sega and provided copies of the demands.

47. Aside from the respective Claimants’ identifying information, each demand was identical: each one alleged that the individual Claimant was a California resident who had (1) played a Sega mobile game in the last year, (2) seen 10 or more ads while playing a Sega mobile game, and (3) objected to receiving discriminatory advertising. *See, e.g.*, Exhibit C. The demands contended that Sega engaged in discriminatory ad targeting based on age and gender,

and thus violated California's Unruh Civil Rights Act based upon the holding in *Liapes v. Facebook, Inc.*, 95 Cal. App. 5th 910, 920-27 (2023). *Id.*

48. The demands did not allege that the Claimants had suffered any concrete injury or harm, a basic requirement of statutory standing. *See* Exhibit C. They did not allege (1) which discriminatory ads had appeared on the specific Sega mobile games they had played, (2) what product or service the Claimants were then interested in pursuing while they were being deprived of the discriminatory ads, or (3) what they would have done with the information in the discriminatory ads. *Id.*

49. The demands invoked the arbitration provision contained in Sega's EULA, with an effective date of September 6, 2021, which was attached to each demand. *Id.*

50. Sega has reason to believe many, if not thousands, of the demands are fraudulent, a byproduct of Consovoy's failure to perform its ethical duty to investigate each demand before filing it.

51. An initial review of all the demands uncovered duplicate demands, fictitious claimants with names such as Poop Smear and See Mee, and numerous other deficiencies. Sega retained a data analytics expert to investigate the 19,541 claimants and to determine the likelihood that they were real people—much less actual users of Sega-published games. The expert analyzed a random sample of 377 claimants, and used public databases, such as whitepages.com and spokeo.com, to determine whether any of the personal identifying information—phone number, email address, and home addresses—provided by the Claimant was associated with that Claimant. The results were alarming. Despite the considerable risk of over-inclusion that attend these databases, 8.2% of Claimants (with a margin of error of +/- 2.77%) did not have a match on a single one of their identifiers in any of the five databases queried.

Accordingly, there is a high risk that at least 1,000 to 2,000 Claimants either do not exist, have had their identities stolen for purposes of filing a fraudulent demand, or have fabricated their contact information. Each of these scenarios is deeply troubling.

52. Sega's own records also establish that thousands of Claimants have never played a Sega-published mobile game. While Sega does not have complete records on the identities of users of its mobile games, Sega maintains a customer relationship management ("CRM") database that collects, from among other sources, the email addresses of users of its most popular Sonic the Hedgehog mobile games in the United States—Sonic Dash, Sonic Forces, and Sonic Boom—on an opt-in basis. Users of those games receive in-game promotions if they choose to share their email addresses with Sega. Approximately 6.82% of all players of these three games opted to share their email addresses with Sega. Yet, when Sega took the email addresses of all 19,517 Claimants and checked them against its CRM, only 1.4%, or 287, had matching addresses. In other words, Claimants are suspiciously under-represented in Sega's records of U.S.-based players of its Sonic games. The extraordinarily low match rate leads to one inescapable conclusion: thousands of Claimants likely did not play a Sonic mobile game in the last year as they claimed they had, or played them on platforms like Roblox which do not contain the Sega EULA.

JAMS Issues Sega a \$39 Million Invoice

53. On April 16, 2024, JAMS issued Sega a *single invoice* for \$39,082,000, representing \$2,000 for each of the 19,541 demands. JAMS arrived at this total by multiplying the number of individual Claimants by the filing fee provided for in JAMS' Fee Schedule (\$2,000).

54. Normally, each party to an arbitration is liable for paying its share of the filing fee. However, Consovoy submitted sworn declarations to JAMS for all 19,541 Claimants asserting—without further evidence—that each was exempt from having to pay their share of arbitration fees under California law because they were earning less than 300% above the poverty line. JAMS did not require any further proof from Consovoy or the Claimants and merely accepted these declarations at face value.

55. Additionally, JAMS issued the invoice to Sega despite its knowledge and understanding that it does not have the capacity to handle an additional 19,541 individual arbitrations. This means that JAMS is requiring Sega to pay a \$39,082,000 *non-refundable* filing fee for services that, by its own admission, *it cannot provide*.

56. JAMS has not withdrawn this invoice. JAMS has also issued one invoice, in the aggregate, rather than separate invoices for each individual arbitration.

57. As a result, Sega has sued JAMS for breach of contract and other claims. *See Sega of America, Inc. v. JAMS*, No. 25STCV02240 (L.A. Super Ct. Jan. 27, 2025).

Consovoy Files A Petition To Compel Arbitration For 19,517 Claimants In A Consolidated Action In Violation Of The EULA

58. Sega, unable to confirm it had valid arbitration agreements with all Claimants and suspecting that many Claimants were fake or were asserting fraudulent demands, did not pay the JAMS invoice and requested Consovoy provide corroborating information to support the assertion that Claimants were legitimate users of Sega mobile games.

59. On July 10, 2024, Consovoy instead filed a consolidated Petition for an Order Compelling Arbitration on behalf of 19,517 Claimants.²³ *See Hensley et al. v. Sega of America, Inc.* No. 24STCP02215 (L.A. Sup. Ct.).²⁴

60. Consovoy's decision to file a single, consolidated petition interfered with Sega and Claimants' contractual relations by causing Claimants to breach the EULA. As stated, the EULA specifically requires that "any arbitration or court proceeding shall be conducted in their individual capacities only," and specifically prohibits "collective, consolidated, or representative action[s]." Exhibit A, § 19 (emphasis added). Thus, the EULA required each Claimant to file their own petition in a separate non-consolidated, non-coordinated and non-representative action.²⁵

61. Upon information and belief, Consovoy chose to file a single, consolidated petition solely to benefit itself and not Claimants. There is no doubt that Consovoy knew that the EULA prohibited the filing of a consolidated petition to compel arbitration. Consovoy had no

²³ Consovoy removed 24 Claimants from the petition as a result of Sega identifying numerous duplicate demands. In addition, with reference to its internal records, Sega was able to confirm that 287 of the 19,517 Claimants were bona fide players of Sega games. Sega has consented to arbitration with these 287 Claimants and is not trying to avoid its obligations under the EULA for valid Claimants.

²⁴ On August 20, 2024, Consovoy filed a Motion for an Order Compelling Arbitration, in support of which it included identical declarations for each of the Claimants. Like their arbitration demands, these declarations were identical, copy-paste forms that all said: "I have played Sega's mobile games in California, including Sonic the Hedgehog within the last ten months. During that period, I have seen at least ten advertisements while playing SEGA mobile games." *See* Exhibit D. These declarations did nothing to alleviate Sega's concerns that it was litigating against a substantial number of made-up individuals, individuals that never played a Sega video game, or individuals who played the games on platforms that do not include the EULA.

²⁵ Again, this assumes that all 19,517 Claimants were parties to the EULA. As explained, it is likely that many were not. Sega's tortious interference claim thus applies only to those Claimants that were parties to the EULA.

problem with adhering to the EULA in filing 19,541 individual arbitration demands. But filing 19,517 separate petitions did not benefit Consovoy as it would have had to pay millions of dollars in court filing fees, so it chose to ignore the express terms of the EULA.

62. Consovoy's interference has caused Sega harm. It deprived Sega of its contractual right of an individualized court proceeding with each Claimant that agreed to the EULA. Thus, by filing Claimants' petition in a consolidated action, Sega was forced to present and rely on collective evidence in the superior court rather than an individualized inquiry in each separate petition, as the EULA required.²⁶

63. Sega now faces the significant harm of being compelled to pay over \$39 million before it can conduct such an inquiry and individually challenge whether each Claimant is in fact a genuine user of Sega games. And because these fees are non-refundable, even if Sega proves that Claimants had no right to enforce Sega's EULA, the \$39 million will be lost forever.

CAUSES OF ACTION

COUNT I

Tortious Interference With Contractual Relations Between Sega And Claimants

64. Sega realleges and incorporates herein by reference each and every allegation set forth above in paragraphs 1 through 63.

65. Sega's EULA, which contains the arbitration agreement, is a valid and enforceable contract that binds each Claimant that agreed to it.

66. At all times alleged in this Complaint, Consovoy knew that Sega had a valid and enforceable contract with each Claimant that agreed to the EULA.

²⁶ The superior court granted Claimants' petition relying on collective, rather than individualized, evidence. Sega has appealed the superior court's decision.

67. Consovoy intentionally induced Claimants that agreed to the EULA to breach it by causing Claimants to file a single, consolidated petition to compel Sega to arbitrate.

68. Consovoy caused Claimants to file a single, consolidated petition solely for the benefit of itself and not Claimants.

69. Claimants that agreed to the EULA materially breached it by filing a single, consolidated petition to compel Sega to arbitrate.

70. As a direct and proximate result of Consovoy's interference with Sega's contract with each Claimant that agreed to the EULA, Sega has suffered, and will continue to suffer monetary damages in an amount to be proven at trial, which amount exceeds the jurisdictional minimum of this Court.

COUNT II

Tortious Interference With Contractual Relations Between Sega And JAMS

71. Sega realleges and incorporates herein by reference each and every allegation set forth above in paragraphs 1 through 70.

72. Sega's inclusion of JAMS as the arbitration provider in the EULA consummated a contract between Sega and JAMS to provide arbitration services.

73. By expressly promoting itself as a leading provider available to conduct arbitration services, JAMS manifested an intent to enter into a contract with Sega.

74. JAMS also manifested its intent to continue its contractual relationship with Sega by administering its arbitration services several times in the past to disputes between Sega and its users.

75. By expressly referencing JAMS as the provider in any agreement to arbitrate, Sega manifested an intent to enter into a contract with JAMS.

76. At all times alleged in this Complaint, Consovoy knew that Sega had a valid and enforceable contract with JAMS.

77. Consovoy intentionally induced JAMS to breach its contract with Sega by filing 19,541 demands for arbitration with JAMS. Consovoy knew that JAMS would be unable to administer the 19,541 arbitration demands.

78. The filing of the 19,541 arbitration demands caused JAMS to breach its contract with Sega in three distinct ways.

79. First, JAMS breached its contract with Sega by issuing a \$39,082,000 invoice to Sega for services that, by JAMS' own admission, it cannot perform. Recognizing its inability to handle a significant increase in its caseload in individual arbitrations, JAMS enacted in May 2024 its Mass Arbitration Procedure. By offering its services in this distinct fashion, JAMS has implicitly acknowledged it cannot handle an additional 19,541 arbitrations under its standard procedures. Additionally, statements from JAMS' own personnel and a review of the available arbitrators (as stated on the JAMS website) makes clear that JAMS cannot provide the arbitration services for which it is charging Sega.

80. This practice is also substantively unconscionable within the meaning of *Perdue v. Crocker National Bank*, 38 Cal. 3d 913 (1985). JAMS has issued Sega an invoice for *non-refundable* filing fees for thousands of claimants totaling over \$39 million. By its own admission, JAMS cannot reasonably administer these 19,541 individual arbitrations. JAMS does not warn would-be consumers of its services that it will embrace this course of conduct anywhere on its website or advertising materials. JAMS is, essentially, requiring Sega to forfeit \$39 million in *non-refundable* filing fees for thousands of claimants when it (1) admits it cannot

provide the service for which it is requiring Sega to pay and (2) can administer arbitrations much more efficiently via the Mass Arbitration Procedure.

81. Second, JAMS breached its contract with Sega by issuing invoices for the Claimants in one invoice, rather than separate invoices for each individual. JAMS and Sega have a separate contract with respect to each individual Claimant that agreed to the EULA. Therefore, JAMS should have issued Sega individual invoices for each Claimant. JAMS' misconduct in this regard has made it impossible for Sega to parse the validity of an individual claim in advance of paying the non-refundable filing fees.

82. Third, JAMS breached its contract with Sega by impermissibly shifting filing fees from each Claimant to Sega. By its conduct and representations, JAMS should have invoiced Sega only for its share of the filing fees—not for its filing fees *and* each individual Claimant's.

83. As a direct and proximate result of Consovoy's interference with Sega's contract with JAMS, Sega has suffered, and will continue to suffer monetary damages in an amount to be proven at trial, which amount exceeds the jurisdictional minimum of this Court.

PRAYER FOR RELIEF

WHEREFORE, Sega prays for judgment in its favor and against Consovoy as follows:

- On the First Cause of Action for monetary damages in an amount to be proven at trial;
- On the Second Cause of Action for monetary damages in an amount to be proven at trial;
- For Sega's attorneys' fees to the extent permitted by law or contract;
- For Sega's costs of suit; and
- For all such other relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable as of right.

Dated: February 10, 2025

By: /s/ Paul Werner

Paul Werner (VSB No. 48910)
Sheppard, Mullin, Richter & Hampton LLP
2099 Pennsylvania Avenue NW
Washington, D.C. 20006
Telephone: 202-747-1931
Facsimile: 202-747-3817
pwerner@sheppardmullin.com

P. Craig Cardon (*pro hac vice* to be submitted)
Jay T. Ramsey (*pro hac vice* to be submitted)
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6055
Telephone: 310-228-3700
Facsimile: 310-228-3701
ccardon@sheppardmullin.com
jramsey@sheppardmullin.com

Attorneys for Sega of America, Inc.

Exhibit A

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Because SEGA would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that SEGA shall be entitled, without bond or other security or proof of damages, to take such action as may be required, including seeking an injunction and other equitable remedies, in addition to any other remedies available to it under applicable law.

15. DATA PROTECTION NOTIFICATION

YOU ACKNOWLEDGE THAT SEGA MAY (I) PROCESS PERSONAL DATA RELATING TO YOU AS PART OF YOUR USE OF THE PRODUCT AND (II) DISCLOSE OR TRANSFER SUCH PERSONAL DATA TO OTHER PERSONNEL OR ENTITIES WITHIN SEGA, OR ANY OTHER PERSONS AS MAY BE REASONABLY NECESSARY, AND AS OTHERWISE REQUIRED OR PERMITTED BY LAW. FURTHER DETAILS IN RESPECT OF THE COLLECTION, PROCESSING AND TRANSFER OF SUCH DATA ARE OUTLINED IN THE SEGA PRIVACY POLICY MADE AVAILABLE ONLINE AT <https://www.sega.com/privacy> (<https://www.sega.com/privacy>). IN LIMITED CASES WHERE CONSENT IS APPROPRIATE TO AND SOUGHT FOR SPECIFIC PROCESSING, A SEPARATE CONSENT NOTICE WILL APPLY.

Questions, comments and requests regarding the data we collect are welcomed and should be addressed to SEGA Europe Limited, Customer Service Department, 27 Great West Road, Brentford, Middlesex, TW8 9BW, UK or at <https://help.sega.com> (<https://help.sega.com>). You can also contact our data protection officer at dataprivacy@segaamerica.com (<mailto:dataprivacy@segaamerica.com>).

16. LIMITED GAME SOFTWARE GUARANTEE

SUBJECT TO THE LIMITATION SET OUT BELOW, SEGA WARRANTS TO THE ORIGINAL BUYER OF THIS PRODUCT THAT THIS PRODUCT WILL PERFORM UNDER NORMAL USE SUBSTANTIALLY AS DESCRIBED IN THIS PRODUCT AND/OR ITS ACCOMPANYING MANUAL OR OTHER MATERIALS, FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FIRST PURCHASE (“THE GUARANTEE”). THIS GUARANTEE GIVES YOU SPECIFIC RIGHTS, AND YOU MAY ALSO HAVE STATUTORY OR OTHER RIGHTS UNDER YOUR LOCAL JURISDICTION, WHICH REMAIN UNAFFECTED.

THIS GUARANTEE SHALL NOT APPLY IF THIS PRODUCT IS USED IN A BUSINESS OR COMMERCIAL MANNER AND/OR IF ANY DEFECT OR FAULT RESULTS FROM YOUR (OR SOMEONE ACTING UNDER YOUR CONTROL OR AUTHORITY) FAULT, NEGLIGENCE, ACCIDENT, ABUSE, VIRUS, MISUSE OR MODIFICATION OF THE PRODUCT AFTER PURCHASE.

IF YOU DISCOVER A PROBLEM WITH THIS PRODUCT WITHIN THE GUARANTEE PERIOD (INCLUDING A PROBLEM WITH THE ACTIVATION OF THE GAME SOFTWARE, USING KEY-CODES OR OTHERWISE), YOU SHOULD CONTACT THE RETAILER FROM WHERE YOU BOUGHT THE

PRODUCT. PLEASE ENSURE THAT YOU HAVE A COPY OF THE ORIGINAL SALES RECEIPT AS YOU MAY BE ASKED TO PROVIDE THIS TO THE RETAILER. IF YOU DISCOVER A BUG OR ERROR IN THE PRODUCT, PLEASE CONTACT THE TECHNICAL SUPPORT TEAM AT SEGA (DETAILS SET OUT BELOW) AND INFORM THEM OF THE DIFFICULTY YOU ARE EXPERIENCING WITH THE PRODUCT. THE RETAILER OR SEGA WILL EITHER REPAIR OR REPLACE THE PRODUCT AT THEIR OPTION. ANY REPLACEMENT PRODUCT WILL BE GUARANTEED FOR THE REMAINDER OF THE ORIGINAL GUARANTEE PERIOD OR NINETY (90) DAYS FROM RECEIPT OF THE REPLACEMENT PRODUCT, WHICHEVER IS LONGER. IF FOR ANY REASON THE PRODUCT CANNOT BE REPAIRED OR REPLACED, YOU WILL BE ENTITLED TO RECEIVE AN AMOUNT UP TO THE PRICE YOU PAID FOR THE PRODUCT. THE FOREGOING (REPAIR, REPLACEMENT OR THE PRICE YOU PAID FOR THE GAME SOFTWARE) IS YOUR EXCLUSIVE REMEDY. FOR THE AVOIDANCE OF DOUBT, THE LIMITATION OF LIABILITY SET-OUT IN SECTION 8 OF THIS AGREEMENT SHALL BE APPLICABLE TO THIS GUARANTEE.

17. OPEN SOURCE SOFTWARE AND THIRD PARTY SOFTWARE

THE GAME SOFTWARE INCLUDES AND/OR USES OPEN SOURCE SOFTWARE (“OSS”) AND THIRD PARTY SOFTWARE (“TPS”). YOU AGREE TO BE BOUND BY LICENSE TERMS AS RESTRICTIVE AS THOSE CONTAINED HEREIN IN RESPECT OF THE OSS AND TPS CONTAINED IN THE SOFTWARE.

18. TECHNICAL PROTECTION MEASURES

This Product may be protected by anti-cheat/hacking software and/or Denuvo Anti-Tamper Protection Technology (“**Denuvo Anti-Tamper Technology**”). You hereby acknowledge and agree to the following regarding the Denuvo Anti-Tamper Technology:

- (a) the installation of the Product will cause the Denuvo Anti-Tamper Technology to be installed on your device;
- (b) the Denuvo Anti-Tamper Technology may limit the number of installations of the Product;
- (c) the Denuvo Anti-Tamper Technology may install on your device additional components required for copy protection;
- (d) during the installation and/or the first launch of the Product, an online connection may be required to activate the Product and the Denuvo Anti-Tamper Technology; and
- (e) certain files of the Denuvo Anti-Tamper Technology may remain even after the Product is uninstalled from your device.

In no event shall SEGA be liable to you in connection with the components that may be installed on your device relating to the Denuvo Anti-Tamper Technology.

If you disable or otherwise tamper with the Denuvo Anti-Tamper Technology, the Product may not operate properly and you are in material breach of this Agreement.

You can find out about Denuvo's privacy practices in its privacy policy: <https://irdeto.com/privacy/> (<https://irdeto.com/privacy/>)

19. FOR RESIDENTS IN THE UNITED STATES AND CANADA – BINDING ARBITRATION AND CLASS ACTION WAIVER

This Section 19 applies to you if reside in or acquired and use the Product in the United States or Canada.

Binding Arbitration: You and SEGA (each a “party” for purposes of this Section, and collectively “the parties”) agree that all claims arising out of or relating to this Agreement (including its interpretation, formation, performance and breach), our relationship with each other, or your use of the Product shall be finally settled solely by binding arbitration unless the claim is within the exceptions described below. THIS AGREEMENT MEANS THAT YOU AND SEGA AGREE TO NOT HAVE SUCH CLAIMS RESOLVED IN A TRIAL BY A JUDGE OR JURY. This agreement applies to all kinds of claims, including legal, equitable, or statutory claims, under any legal theory. It also applies even after you stop using or delete, destroy, or otherwise no longer possess the Product. If you or SEGA brings a claim in court that is subject to arbitration under this section, either party can ask the court to order the parties to resolve the claim by arbitration. The arbitrator, and not a court, shall have the exclusive authority to decide whether any portion of this section is valid or enforcement, or whether it applies to a claim.

An arbitration proceeding shall be held before a neutral arbitrator and not a judge or a jury, so you and SEGA agree to give up the right to a trial before a judge or jury. An arbitration proceeding has different rules than a lawsuit in a court. For example, arbitration is less formal and usually provides for more limited information sharing between the parties in the process called discovery. After the arbitrator decides the outcome, that decision will be final and you or SEGA will generally not be able to change the outcome in a court.

This arbitration provision is made pursuant to a transaction involving interstate commerce, and the Federal Arbitration Act (the “**FAA**”) shall apply to the interpretation, applicability, enforceability, and formation of this Agreement notwithstanding any other choice of law provision contained in this Agreement.

You and SEGA agree that the arbitration will be administered by JAMS in accordance with the provisions of its Comprehensive Arbitration Rules or Streamlined Arbitrations Rules, as appropriate, excluding any rules or procedures governing or permitting class actions. But if there is a conflict between this Agreement and the JAMS rules, then we will follow this Agreement. The JAMS Rules governing the arbitration may be accessed at <http://www.jamsadr.com/> (<http://www.jamsadr.com/>) or by calling JAMS at (800) 352-5267. Your arbitration fees and your share of arbitrator compensation shall be governed by the JAMS Comprehensive Arbitration Rules, but shall not incorporate the JAMS Class Action Procedures, and to the extent applicable, the Consumer Minimum Standards, including the then-current limit on arbitration filing fees. If the filing fee for the arbitration exceeds the cost of filing a lawsuit, SEGA will pay the additional cost. The parties understand that, in some instances, the costs of arbitration could exceed the costs of litigation. Each party will pay its own attorneys' fees and costs unless the claims allow for to the prevailing party to recover attorneys' fees and costs, in which case the arbitrator may award them under the applicable law. If either party unsuccessfully challenges the validity of the arbitrator's decision or award through a subsequent court case, the unsuccessful party shall pay the opposing party's costs and attorneys' fees associated with the challenge.

Location: The arbitration will take place in Los Angeles County, California or in the county or province where you reside. You and SEGA agree to submit to the personal jurisdiction of any federal or state court in Los Angeles County, California, in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator.

Class Action Waiver: The parties further agree that any arbitration or court proceeding shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. As a result:

- YOU CANNOT BRING A CLAIM AGAINST SEGA AS A PLAINTIFF OR CLASS MEMBER IN A CLASS ACTION OR ANY OTHER COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ACTION.
- AN ARBITRATOR CANNOT COMBINE YOUR CLAIMS AGAINST SEGA WITH ANY OTHER PERSON'S CLAIMS AGAINST SEGA INTO A SINGLE CASE.

If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then Section 19 shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

Exceptions to Agreement to Arbitrate: We agree that we each will still have the right to go to court to resolve the following claims:

- Claims about SEGA's intellectual property (for example, trademarks, trade dress, domain names, trade secrets, copyrights or patents).
- Claims related to piracy or tortious interference.
- Claims that are not subject to an arbitration agreement as a matter of law and are not preempted by federal law that would allow for an agreement to arbitrate.
- Claims in small claims court.

Any dispute not subject to arbitration under these exceptions shall be resolved by a court of competent jurisdiction subject to the venue requirements described in Section 20.

30 Day Right to Opt Out: You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in Section 19 by sending written notice of your decision to opt-out to the following address: SEGA, 140 Progress, Suite 100, Irvine, CA 92618; Attn. Legal & Business Affairs Department. The notice must include the following information:

- Your full name.
- Your address.
- The name of Product you purchased and the date you purchased it or, if no purchase was made, the date that you first accessed or used the Product.
- All usernames or identifiers you use to access or use the Product, if any.
- Your signature.

The notice must be sent within 30 days of purchasing the Product (or if no purchase was made, then within 30 days of the date on which you first access or use the Product and agree to these terms); otherwise you shall be bound to arbitrate disputes in accordance with this section. If you

opt-out of these arbitration provisions, SEGA also will not be bound by them.

20. MISCELLANEOUS

This Agreement represents the complete agreement between you and SEGA concerning the Product and supersedes all prior agreements and representations, warranties or understandings between you and SEGA (whether negligently or innocently made but excluding those made fraudulently), regarding the same subject matter.

If any part of the Agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty, disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect. Any failure by us to enforce or exercise any provision of the Agreement or related rights shall not constitute a waiver of that right or provision.

SEGA may assign this Agreement, in whole or in part, at any time. Notwithstanding, you may not assign, transfer or sublicense any or all of your rights or obligations under the Agreement without SEGA's express prior written consent.

SEGA's performance of the Agreement is subject to existing laws and legal process, and nothing contained in the Agreement is in derogation of SEGA's right to comply with governmental, court, and law enforcement requests or requirements relating to your use of the Product or information provided to or gathered by SEGA with respect to such use. In addition to any excuse provided by applicable law, we shall be excused from liability for non-delivery or delay in delivery of the Product arising from any event beyond our reasonable control, whether or not foreseeable by either party, including but not limited to, labor disturbance, war, terrorism, fire, denial of service attack, internet outages, accident, adverse weather, inability to secure transportation, governmental act or regulation, and other causes or events beyond our reasonable control, whether or not similar to those which are enumerated above.

Nothing in this Agreement gives or claims to give to any third party any benefit or right to enforce any term of this Agreement.

The parties agree that all correspondence relating to this Agreement shall be written in the English language.

Applicable Law: Any dispute arising out of or related to this Agreement shall be governed in all respects by the laws of the State of California of the United States of America without regard to conflict of law provisions. If you are a resident of the United States or Canada, the United States Federal Arbitration Act governs the interpretation and enforcement of the agreement to arbitrate and class action waiver provisions of Section 19.

Venue for Disputes Not Subject to Arbitration: Any dispute not subject to arbitration under Section 19 of this Agreement must be resolved exclusively in either the Superior Court of the State of California for Los Angeles County or the United States District Court for the Central District of California at Los Angeles.

You may contact SEGA Customer Service at the following address:

SEGA

Customer Service Department

27 Great West Road

Brentford

Middlesex

TW8 9BW

Email: help@sega.co.uk (<mailto:help@sega.co.uk>)

Website: help.sega.com

UNLESS OTHERWISE NOTED, THE EXAMPLE COMPANIES, ORGANISATIONS, PRODUCTS, PEOPLE AND EVENTS DEPICTED IN THE PRODUCT ARE FICTITIOUS AND NO ASSOCIATION WITH ANY REAL COMPANY, ORGANISATION, PRODUCT, PERSON OR EVENT IS INTENDED OR SHOULD BE INFERRED.

BY CONTINUING TO USE THE PRODUCT, YOU HEREBY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THE FOREGOING AGREEMENT AND AGREE THAT YOUR USE OF THE PRODUCT IS AN ACKNOWLEDGMENT OF YOUR AGREEMENT TO BE BOUND BY THE AGREEMENT.

SCHEDULE

MODDING TERMS

Where possible, SEGA encourages its users to express their creativity and enhance the experience of certain games through the creation of modifications (including but not limited to new items, weapons, characters, models, textures, levels, story lines, music and game modes) for use with the Product ("**Mod**" or "**Mods**"). In order to protect SEGA, the Product, any third party licensors that have licensed intellectual property to SEGA for use in the Product, and users that create Mods, the following terms apply ("**Modding Terms**"). Please review these rules carefully before you create, share, distribute, use or otherwise exploit any Mods.

Please note that SEGA prohibits the creation of Mods for certain games. This may be due to third party licensing issues which prevent SEGA from allowing its users to create Mods. In such instances, you shall not be entitled to create Mods for that Product and the Modding Terms shall not apply.

You can find out which Products allow for the creation of Mods by visiting the applicable Modding Page (as defined below). If you are unsure as to whether the creation of Mods is prohibited for your Product, please contact SEGA's Customer Service Department (customersupportuk@sega.co.uk (<mailto:customersupportuk@sega.co.uk>)). Please note that laws in your respective jurisdiction may require that you are of a certain age in order to enter into legally binding arrangements such as the Modding Terms. In the event that you are under the required age, you may not create any Mods, unless your parent or legal guardian has reviewed and agreed to the Modding Terms. The license we provide to you to create and use Mods with the Product may be revoked if you breach the Modding Terms.

1. OWNERSHIP

You acknowledge that you shall have no ownership or other proprietary interest in the Product and/or any Mods which you create, except as expressly stated herein. Any Mods that you create shall belong to you only insofar as the Mod contains your original creative work. You acknowledge and agree that all right, title and interest in any elements of the Mod which represent, comprise, derive or are based upon any intellectual property rights which subsist in the Product (including but not limited to any computer code, themes, objects, characters, character names, stories, dialogs, catch phrases, locations, concepts, artwork, images, animation, sounds, musical compositions, audio-visual effects or text), including without limitation copyrights, trademarks and other intellectual properties therein and/or related thereto, whether or not registered or registrable, are owned by, or for the benefit of SEGA and its licensors.

2. LICENSE

Subject to your compliance with the terms and conditions of the EULA and the Modding Terms, SEGA hereby grants you a non-exclusive, non-transferable, limited, fully revocable right and license to install, access and use the in-game modding tools, any graphical assets and/or other related tools provided by SEGA ("**Modding Tools**") solely and exclusively to create Mods for use with the Product and to publish those Mods on the applicable SEGA approved third party Modding webpage for the Product ("**Modding Libraries**"). Please note that certain Modding Libraries may be owned and operated by third parties such as Valve (<https://store.steampowered.com/> (<https://store.steampowered.com/>)) and EPIC (<https://www.epicgames.com/store/en-US/> (<https://www.epicgames.com/store/en-US/>)), (collectively, the "**Third Party Platforms**") and may be subject to additional terms and conditions published by those Third Party Platforms. You acknowledge and agree that your use of the Modding Tools is at your own discretion and risk and that you will be solely responsible for any obligations, damages or losses which arise from your registration, access and use of the Modding Tools.

You agree to use the Modding Tools to create Mods in a manner that is consistent with this Agreement, and with any additional terms and conditions published by the Third Party Platforms, including an agreement that you shall not sell, rent, lease, license, distribute or otherwise transfer or exploit the Modding Tools and/or Mods or any copies thereof, for commercial gain or otherwise, except as permitted by this Agreement and/or the Third Party

Platforms. A breach of the provisions of this license shall constitute a material breach which has the effect of terminating the EULA (including the Modding Terms) and which may subject you to civil and criminal liability.

In consideration of the above grant of rights, you hereby grant SEGA, its affiliates, its licensors and any Third Party Platforms all the necessary consents, clearances and an irrevocable, sub-licensable, worldwide, royalty-free, perpetual license and right to use, reproduce, modify, adapt, display, distribute or otherwise exploit any Mod which is uploaded to the Modding Libraries in any way SEGA and/or any Third Party Platforms see fit for use with the Product. You waive and agree never to assert against SEGA or its affiliates, licensors, or the Third Party Platforms any moral rights or similar rights, however designated, that you may have in or to any Mods.

3. CONTENT RESTRICTIONS

Any element which you include in your Mod (except for the Modding Tools) must be your own original work created by you or you must have obtained the necessary permissions to use such materials. You are responsible for the content of any Mods which you create and publish on the Modding Libraries and shall warrant and represent to SEGA and any Third Party Platform that your Mods do not contain:

1. any materials which are discriminatory, racist, obscene, libelous, offensive, illegal, defamatory, inappropriate, invasive, or likely to adversely affect the reputation or goodwill of SEGA and/or its licensors;
2. any resemblance to any recognizable third party brand, character or personality, including but not limited to any trademark, logos or third party assets except for those assets provided to you by SEGA within the Modding Tools as necessary for the creation of the Mod for use with the Product;
3. any assets from other games published by SEGA and its affiliates or any other third party without permission, where such use constitutes an infringement of third party intellectual property rights;
4. any materials which do not comply with any additional instructions provided to you by SEGA and/or the Third Party Platforms as published on the Modding Libraries or within the Modding Tools, which may be updated by SEGA and/or the Third Party Platforms from time to time;
5. any malicious code, including viruses, spyware, Trojan horses, worms, time bombs, cancelbots, corrupted data, or other content that contains malicious code or in any way damages or interfere with the operation of the Product.

SEGA does not pre-vet or monitor any Mods which are uploaded to the Modding Libraries and does not monitor, endorse or approve any Mods. You are solely responsible for your Mod and may be held liable for any Mod which you create and upload to the Modding Libraries. SEGA and the Third Party Platforms reserve the right, in their sole and final discretion, to remove any Mods from the Modding Libraries which violates the content restrictions above. To the maximum extent permitted by applicable law, SEGA does not assume any responsibility or liability for the Mods or for removal of Mods, or any failure or delay in removing such Mods.

4. INDEMNIFICATION

You agree to indemnify, defend and hold SEGA and its parent companies, affiliates, licensors, licensees, contractors, officers, directors, employees, agents and the Third Party Platforms harmless from any damages, losses, cost and expenses (including attorneys' fees) arising directly or indirectly from any acts and omissions associated with the use of any Mod which you create and publish, including but not limited to any allegation that the Mod violates the copyright, trademark, trade secret, privacy or other intellectual property or other rights of any third party, or any other violation of these terms.

5. OUR LIABILITY

WE PROVIDE THE PRODUCT, THE MODDING TOOLS AND ANY MODS ON AN "AS IS" BASIS AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. YOU ACKNOWLEDGE AND AGREE THAT YOUR EXCLUSIVE REMEDY FOR ANY DISPUTE WITH SEGA IS TO STOP USING THE PRODUCT (INCLUDING BUT NOT LIMITED TO THE MODDING TOOLS AND/OR ANY MODS). IN NO EVENT SHALL SEGA AND ITS LICENSORS, OR ANY THIRD PARTY PLATFORMS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PRODUCT, THE MODDING TOOLS AND ANY MODS. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES AND/OR PERSONAL INJURY, DEATH, FRAUD AND/OR CERTAIN IMPLIED WARRANTIES, IN SUCH STATES OR JURISDICTIONS, THE LIABILITY OF SEGA AND ITS LICENSORS SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

6. TERMINATION

SEGA and the Third Party Platforms reserve the right to suspend access to, or terminate the license for, any Mods, Modding Tools and the Modding Libraries at any time for any reason. If you commit any breach of clauses 2 and 3 of the Modding Terms, your license to use the Product, the Modding Tools and/or any Mods shall automatically terminate, without notice. Your grant of the license to SEGA to use any Mods which you create and publish to the Modding Libraries shall survive termination.

Because SEGA would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that SEGA shall be entitled to take such action as may be required, including seeking an injunction and other equitable remedies, in addition to any other remedies available to it under the applicable law.

7. MISCELLANEOUS

This Agreement represents the complete agreement between you and SEGA concerning Mods and the Modding Tools and supersedes all prior agreements and representations, warranties or understandings between you and SEGA (whether negligently or innocently made but excluding

those made fraudulently), regarding the same subject matter. SEGA reserves the right to amend or modify these terms at any time, in any manner, without any liability to SEGA and at SEGA's sole discretion. Any amendment or modification to these terms shall be made available at <https://www.sega.com/EULA> (<https://www.sega.com/EULA>).

Exhibit B

Attorney
Advertising

Sign up for a Sega Gaming Compensation Claim

You likely qualify for compensation if you played any of the following games:

- Sonic the Hedgehog
- Sonic CD Classic
- SonicDash
- Crazy Taxi Classic
- Sonic Forces
- Streets of Rage Classic
- Sonic the Hedgehog Classic

Signing up is free and takes 2 to 3 minutes

Sign up for a Compensation Claim

Sign Up for a Claim

Clicking the button will take you to a short qualification questionnaire.

We may follow up with you by phone and text pursuant to our [privacy policy](#). By signing up, you agree to our [terms and conditions](#).

Many people likely qualify for hundreds to thousands in compensation under consumer protection laws.

How to Sign Up for a Compensation Claim

Signing up takes about 2-3 minutes

1. Fill out the contact form on this page. Enter your full legal name.

Once you submit the form you will be taken to a short questionnaire

2. If we believe you qualify for compensation based on your responses, you can sign up for a claim from your phone or computer by completing a representation agreement and providing some additional

3. Once we receive your documents we'll review your answers and start working on your potential claim.

It is free to sign up and

your full legal name.

Once you submit the form you will be taken to a short questionnaire.

responses, you can sign up for a claim from your phone or computer by completing a representation agreement and providing some additional information.

your answers and start working on your potential claim.

It is free to sign up and you owe nothing unless we get you compensation.

People who played Sega games including Sonic the Hedgehog and Crazy Taxi may be entitled to significant compensation. Signing up for a compensation claim takes 2-3 minutes.

Users Can Sign Up for Compensation

Sega Gaming Violated California Consumer Protection Laws

Sega gaming is accused of discrimination against its users.

People who played Sonic the Hedgehog games and Crazy Taxi may be eligible to sign up for a claim.

Many people who played Sega games may be entitled to compensation

We believe that Sega games violated California's anti-discrimination laws due to its misuse of users' information and discriminatory practices.

Many individuals could be entitled to thousands of dollars in compensation.

We are helping users get compensation

If you played any Sega games, you likely qualify for a compensation claim.

We are helping users get compensation

If you played any Sega games, you likely qualify for a compensation claim.

We make the sign up process as easy and straightforward as possible.

Signing up is free and takes 2 to 3 minutes.

If you've played Sega games, you likely qualify for a claim

Sign Up in 2 to 3 minutes

About Us

We are product liability and consumer protection attorneys who have represented thousands of individuals who were harmed or defrauded.

- Jeremy Troxel, Partner
Troxel Law, LLP

Our legal team makes it easier for consumers to receive compensation. This is an Attorney Advertisement. Troxel Law, LLP, 195 Montague St., 14th Floor, Brooklyn NY, 11201, is responsible for the content of this advertisement. Licensed only in the State of New York. In other states, the firm will associate with counsel licensed in that state. Not accepting cases in all jurisdictions. No attorney-client relationship is formed by your use of this website or by any communication you send or receive through this site. The content and features on this website shall not be construed as legal advice. The hiring of a lawyer is an important decision that should not be based solely upon advertisements. No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers. Prior results do not guarantee a similar outcome. Free background information is available upon request.

[Terms and Conditions](#) [Privacy Policy](#)

Exhibit C



Demand for Arbitration Form

Instructions for Submittal of Arbitration to JAMS

INSTRUCTIONS

Please submit this form to your local JAMS Resolution Center. Once the below items are received, a JAMS professional will contact all parties to commence and coordinate the arbitration process, including the appointment of an arbitrator and scheduling a hearing date.

☎ 1-800-352-JAMS

🌐 www.jamsadr.com

If you wish to proceed with an arbitration by executing and serving a Demand for Arbitration on the appropriate party, please submit the following items to JAMS with the requested number of copies:

- A. Demand for Arbitration (2 copies)
- B. Proof of service of the Demand on the appropriate party (2 copies)
- C. Entire contract containing the arbitration clause (2 copies)
 - To the extent there are any court orders or stipulations relevant to this arbitration demand, e.g. an order compelling arbitration, please also include two copies.
- D. Administrative Fees
 - For two-party matters, the Filing Fee is \$2,000. For matters involving three or more parties, the filing fee is \$3,500. The entire Filing Fee must be paid in full to expedite the commencement of the proceedings. Thereafter, a Case Management Fee of 13% will be assessed against all Professional Fees, including time spent for hearings, pre- and post-hearing reading and research and award preparation. JAMS also charges a \$2,000 filing fee for counterclaims. For matters involving consumers, the consumer is only required to pay \$250. See JAMS Policy on Consumer Arbitrations Pursuant to Pre-Dispute Clauses. For matters based on a clause or agreement that is required as a condition of employment, the employee is only required to pay \$400. See JAMS Policy on Employment Arbitrations, Minimum Standards of Fairness. JAMS may apply its Employment Minimum Standards where an individual claims to have been misclassified as an independent contractor or otherwise improperly placed into a category other than employee or applicant for employment.
 - A refund of \$1000 will be issued if the matter is withdrawn within five days of filing. After five days, the filing fee is non-refundable.

Once completed, please submit to your local JAMS Resolution Center.

Resolution Center locations can be found on the JAMS website at: <http://www.jamsadr.com/locations/>.

08/22/2024



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

TO RESPONDENT (PARTY ON WHOM DEMAND FOR ARBITRATION IS MADE)

Add more respondents on page 6.

RESPONDENT NAME	Sega of America, Inc.		
ADDRESS	140 Progress, Suite 100; Attn. Department of Legal & Business Affairs		
CITY	Irvine	STATE	CA ZIP 92618
PHONE	FAX	EMAIL soalegal@segaamerica.com	

RESPONDENT'S REPRESENTATIVE OR ATTORNEY (IF KNOWN)

REPRESENTATIVE/ATTORNEY			
FIRM/COMPANY			
ADDRESS			
CITY		STATE	ZIP
PHONE	FAX	EMAIL	

FROM CLAIMANT

Add more claimants on page 7.

CLAIMANT NAME	Dustin Hensley		
ADDRESS	1340 Gray Ave Apt 17		
CITY	Yuba City	STATE	CA ZIP 95991-3221
PHONE	15302376262	FAX	EMAIL dbaykur31@gmail.com

CLAIMANT'S REPRESENTATIVE OR ATTORNEY (IF KNOWN)

REPRESENTATIVE/ATTORNEY	Bryan Weir		
FIRM/COMPANY	Consovoy McCarthy PLLC		
ADDRESS	1600 Wilson Blvd., Suite 700		
CITY	Arlington	STATE	VA ZIP 22209
PHONE	7032439423	FAX	EMAIL sega@consovoymccarthy.com



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

MEDIATION IN ADVANCE OF THE ARBITRATION

☐ If mediation in advance of the arbitration is desired, please check here and a JAMS Case Manager will assist the parties in coordinating a mediation session.

NATURE OF DISPUTE / CLAIMS & RELIEF SOUGHT BY CLAIMANT

CLAIMANT HEREBY DEMANDS THAT YOU SUBMIT THE FOLLOWING DISPUTE TO FINAL AND BINDING ARBITRATION.
A MORE DETAILED STATEMENT OF CLAIMS MAY BE ATTACHED IF NEEDED.

Sega of America, Inc. is a video game and entertainment company that is headquartered in Irvine, California. Among other things, Sega develops games that its customers play on their phones and tablets. The company's reach is expansive—Sega's games have been downloaded hundreds of millions of times. And that reach shows up in the company's financial statements. Sega's parent company (Sega Sammy Holdings Inc.) is worth over \$3 billion; it had just over \$1 billion of gross profits in FY2023 alone.

One profit center for Sega is advertising. In its privacy policy, Sega explains that it uses "third-party advertising technologies (e.g., ad networks and ad servers such as Google's ad services, and others) on our Products that use cookies to deliver ... targeted ... advertising to you on the Products." Those "ads may be based on various factors such as the content of the page you are visiting, information you provide, your searches, demographic data, and other information we collect about you." Sega deploys that advertising strategy in its games. Sega explains to its customers that they will "receive tailored in-app advertisements when using our Mobile App or other mobile apps. We may [also] use third-party service providers to deliver ads on mobile apps."

Those advertisements can be targeted based on a myriad of factors. Relevant here, Sega uses its customers' "age or date of birth and gender" for its "marketing and advertising purposes." The third-party advertising companies that Sega partners with do as well. Facebook is one of those partners, for example, and it boasts to advertisers that they can "[c]reate the online audience based on the traits of who you want to see your ad, and narrow down your ad's audience by ... gender." It also instructs advertisers to "consider location, age and gender of the customers you want to see your ads" when setting up advertising campaigns.

Gender- and age-based targeted advertising, however, violates California's Unruh Civil Rights Act. That law prohibits discrimination based on gender and age generally. See Cal. Civ. Code §§51(b), (e)(5); Candelore v. Tinder, Inc., 19 Cal. App. 5th 1138, 1145 (2018). And that prohibition applies to platforms—like Sega—that allow advertisers to target their customers with ads based on those customers' gender and age. See Liapes v. Facebook, Inc., 95 Cal. App. 5th 910, 920-27 (2023), review denied (Jan. 10, 2024). In addition, Unruh authorizes \$4,000 in statutory damages for "each and every offense." Cal. Civ. §52(a). Sega is thus liable for \$4,000 each time its policy affects a customer.

Claimant lives in California and is a Sega customer who has played a Sega game. While doing so, Claimant has seen at least 10 advertisements over the last year. Claimant does not want Sega and its advertisers to discriminate against Claimant by using gender and age to determine which advertisements Claimant sees or cannot see. Sega is thus liable to Claimant for at least \$16,000 in statutory damages. Claimant also seeks injunctive relief preventing Sega from targeting Claimant with ads based on gender and age.

AMOUNT IN CONTROVERSY (US DOLLARS)

at least \$16,000

004227207



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

ARBITRATION AGREEMENT

This demand is made pursuant to the arbitration agreement which the parties made as follows. *Please cite location of arbitration provision and attach two copies of entire agreement.*

ARBITRATION PROVISION LOCATION

As a condition of playing Sega games, the company requires customers to agree to its End User License Agreement. Section 19 of that agreement provides that all disputes between customers and Sega must be resolved by individual arbitration before JAMS.

RESPONSE

The respondent may file a response and counter-claim to the above-stated claim according to the applicable arbitration rules. *Send the original response and counter-claim to the claimant at the address stated above with two copies to JAMS.*

REQUEST FOR HEARING

REQUESTED LOCATION Yuba City, CA

ELECTION FOR EXPEDITED PROCEDURES (IF COMPREHENSIVE RULES APPLY)

See: *Comprehensive Rule 16.1*



By checking the box to the left, Claimant requests that the Expedited Procedures described in JAMS Comprehensive Rules 16.1 and 16.2 be applied in this matter. Respondent shall indicate not later than seven (7) days from the date this Demand is served whether it agrees to the Expedited Procedures.

SUBMISSION INFORMATION

SIGNATURE

BW

DATE

April 3, 2024

NAME
(PRINT/TYPED)

Bryan Weir



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

Completion of this section is required for all consumer or employment claims.

CONSUMER AND EMPLOYMENT ARBITRATION

Please indicate if this is a CONSUMER ARBITRATION. For purposes of this designation, and whether this case will be administered in California or elsewhere, JAMS is guided by *California Rules of Court Ethics Standards for Neutral Arbitrators, Standard 2(d) and (e)*, as defined below, and the JAMS Consumer and Employment Minimum Standards of Procedural Fairness:

☒ YES, this is a CONSUMER ARBITRATION.

☐ NO, this is not a CONSUMER ARBITRATION.

"Consumer arbitration" means an arbitration conducted under a pre-dispute arbitration provision contained in a contract that meets the criteria listed in paragraphs (1) through (3) below. "Consumer arbitration" excludes arbitration proceedings conducted under or arising out of public or private sector labor-relations laws, regulations, charter provisions, ordinances, statutes, or agreements.

1. The contract is with a consumer party, as defined in these standards;
2. The contract was drafted by or on behalf of the non-consumer party; and
3. The consumer party was required to accept the arbitration provision in the contract.

"Consumer party" is a party to an arbitration agreement who, in the context of that arbitration agreement, is any of the following:

1. An individual who seeks or acquires, including by lease, any goods or services primarily for personal, family, or household purposes including, but not limited to, financial services, insurance, and other goods and services as defined in section 1761 of the Civil Code;
2. An individual who is an enrollee, a subscriber, or insured in a health-care service plan within the meaning of section 1345 of the Health and Safety Code or health-care insurance plan within the meaning of section 106 of the Insurance Code;
3. An individual with a medical malpractice claim that is subject to the arbitration agreement; or
4. An employee or an applicant for employment in a dispute arising out of or relating to the employee's employment or the applicant's prospective employment that is subject to the arbitration agreement.

NOTE: JAMS is guided by its Consumer Minimum Standards and Employment Minimum Standards when determining whether a matter is a consumer matter. In addition, JAMS may treat a matter as a consumer matter and apply the Employment Minimum Standards where an individual claims to have been misclassified as an independent contractor or otherwise improperly placed into a category other than employee or applicant for employment.

EMPLOYMENT MATTERS

If this is an EMPLOYMENT matter, Claimant must complete the following information:

Private arbitration companies are required to collect and publish certain information at least quarterly, and make it available to the public in a computer-searchable format. In employment cases, this includes the amount of the employee's annual wage. The employee's name will not appear in the database, but the employer's name will be published. Please check the applicable box below:

☐ Less than \$100,000 ☐ \$100,000 to \$250,000 ☐ More than \$250,000 ☐ Decline to State

WAIVER OF ARBITRATION FEES

In certain states (e.g. California), the law provides that consumers (as defined above) with a gross monthly income of less than 300% of the federal poverty guidelines are entitled to a waiver of the arbitration fees. In those cases, the respondent must pay 100% of the fees. Consumers must submit a declaration under oath stating the consumer's monthly income and the number of persons living in his or her household. Please contact JAMS at 1-800-352-5267 for further information. Note: this requirement is not applicable in all states.

END USER LICENSE AGREEMENT**Effective Date: September 6, 2021**

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- (c) use the Product, or permit use of such Product, or make the Product available for use in a network, multi-user arrangement, remote access arrangement, including where it could be downloaded by multiple users;
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11. VIRTUAL ITEMS

The Product may include the option to purchase virtual in-game currency ("Virtual Currency"), virtual in-game digital items, and other virtual in-game goods and services (collectively, "Virtual Items"). In the event you choose to purchase Virtual Items from SEGA or its authorized affiliates, you agree to the pricing, payment and billing policies applicable to such fees and charges, as notified to you at the time of purchase. All fees are non-refundable and non-transferable except as expressly provided in this Agreement. All fees and applicable taxes, if any, are payable in local currency unless specified otherwise at the time of purchase. SEGA has no control over how third parties operate a system of credits or Virtual Items and whether or not such credits or Virtual Items can be exchanged with the Virtual Currency, so this method of obtaining Virtual Currency may not always be available to you. In addition, SEGA has no control over the pricing, payment and billing policies applicable to such purchases from third parties.

Virtual Items are digital items only with no "real world" cash- or other value. **Virtual Items may never be redeemed for "real world" money, goods, or other items of monetary value from SEGA or any other party.** Your right to use any Virtual Items that you obtain is limited to a non-exclusive, non-transferable, non-sub-licensable, revocable right to use such Virtual Items solely for your personal entertainment and non-commercial use and for no other purpose. You agree that SEGA has no obligation to refund or otherwise compensate you for any Virtual Items for any reason, including due to the termination of your license or this Agreement, whether voluntary or involuntary. Except for the limited rights described herein, you have no property interest or right or title in or to any such Virtual Items, which remain the exclusive property of SEGA.

Except where explicitly authorised by SEGA, (i) transfers of Virtual Items are strictly prohibited (including between different products); (ii) you may not buy or sell any Virtual Items for "real world" money or otherwise exchange items for value; and (iii) SEGA does not recognise any such purported transfers of Virtual Items, nor the purported sale, gift or trade in the "real world" of anything that appears in the Product. Any attempt to do any of the foregoing is in violation of the terms of this Agreement and will result in an automatic termination of your rights to use the Virtual Items and may result in a lifetime ban from the Product and/or possible legal action.

YOU AGREE THAT ALL SALES TO YOU OF VIRTUAL ITEMS ARE FINAL. NO REFUNDS WILL BE GIVEN, EXCEPT IN SEGA'S SOLE AND ABSOLUTE DISCRETION.

As stated above, the existence of a particular offer of Virtual Items is not a commitment by SEGA to maintain or continue to make the Virtual Items available in the future. The scope, variety and type of Virtual Items that you may obtain can change at any time. SEGA has the absolute right to manage, regulate, control, modify or eliminate such Virtual Items at any time as it sees fit in its sole discretion without notice, and SEGA will have no liability to you or anyone for the exercise of such rights.

12. INTERNATIONAL USE

Although the Product may be accessible worldwide, we make no representation that the Product or related materials are appropriate or available for use in your location, and the Product may not be accessed from territories where the content is prohibited by local laws. Those who choose to access the Product from such locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable. Any offer and/or information made in connection with the Product is void where prohibited. Without limiting the foregoing, the Product may not be exported or re-exported (a) into (or to a national resident of) any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By accessing and using the Products, you represent and warrant that you are not located in, under control of, or a national resident of, any such country or on any such list.

13. TERMINATION AND SURVIVABILITY OF TERMS

The Agreement set forth herein continues to remain in full force and effect until such time as terminated by either party. You agree and acknowledge that you are not entitled to any refund for any amounts which were paid to SEGA prior to any termination. You retain full discretion to

discontinue use of the Product at any time, pursuant to the terms of this Agreement. Without prejudice to any other rights of SEGA, this Agreement shall terminate automatically if you fail to comply with its terms and conditions. Upon termination, you must destroy all copies of the Product. The provisions of Sections 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 19, 20 and the Modding Terms shall survive any termination of this Agreement.

14. INJUNCTION

Because SEGA would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that SEGA shall be entitled, without bond or other security or proof of damages, to take such action as may be required, including seeking an injunction and other equitable remedies, in addition to any other remedies available to it under applicable law.

15. DATA PROTECTION NOTIFICATION

YOU ACKNOWLEDGE THAT SEGA MAY (I) PROCESS PERSONAL DATA RELATING TO YOU AS PART OF YOUR USE OF THE PRODUCT AND (II) DISCLOSE OR TRANSFER SUCH PERSONAL DATA TO OTHER PERSONNEL OR ENTITIES WITHIN SEGA, OR ANY OTHER PERSONS AS MAY BE REASONABLY NECESSARY, AND AS OTHERWISE REQUIRED OR PERMITTED BY LAW. FURTHER DETAILS IN RESPECT OF THE COLLECTION, PROCESSING AND TRANSFER OF SUCH DATA ARE OUTLINED IN THE SEGA PRIVACY POLICY MADE AVAILABLE ONLINE AT <https://www.sega.com/privacy> (<https://www.sega.com/privacy>). IN LIMITED CASES WHERE CONSENT IS APPROPRIATE TO AND SOUGHT FOR SPECIFIC PROCESSING, A SEPARATE CONSENT NOTICE WILL APPLY.

Questions, comments and requests regarding the data we collect are welcomed and should be addressed to SEGA Europe Limited, Customer Service Department, 27 Great West Road, Brentford, Middlesex, TW8 9BW, UK or at <https://help.sega.com> (<https://help.sega.com>). You can also contact our data protection officer at dataprivacy@segaamerica.com (<mailto:dataprivacy@segaamerica.com>).

16. LIMITED GAME SOFTWARE GUARANTEE

SUBJECT TO THE LIMITATION SET OUT BELOW, SEGA WARRANTS TO THE ORIGINAL BUYER OF THIS PRODUCT THAT THIS PRODUCT WILL PERFORM UNDER NORMAL USE SUBSTANTIALLY AS DESCRIBED IN THIS PRODUCT AND/OR ITS ACCOMPANYING MANUAL OR OTHER MATERIALS, FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FIRST PURCHASE ("THE GUARANTEE"). THIS GUARANTEE GIVES YOU SPECIFIC RIGHTS, AND YOU MAY ALSO HAVE STATUTORY OR OTHER RIGHTS UNDER YOUR LOCAL JURISDICTION, WHICH REMAIN UNAFFECTED.

THIS GUARANTEE SHALL NOT APPLY IF THIS PRODUCT IS USED IN A BUSINESS OR COMMERCIAL MANNER AND/OR IF ANY DEFECT OR FAULT RESULTS FROM YOUR (OR SOMEONE ACTING UNDER YOUR CONTROL OR AUTHORITY) FAULT, NEGLIGENCE, ACCIDENT, ABUSE, VIRUS, MISUSE OR MODIFICATION OF THE PRODUCT AFTER PURCHASE.

IF YOU DISCOVER A PROBLEM WITH THIS PRODUCT WITHIN THE GUARANTEE PERIOD (INCLUDING A PROBLEM WITH THE ACTIVATION OF THE GAME SOFTWARE, USING KEY-CODES OR OTHERWISE), YOU SHOULD CONTACT THE RETAILER FROM WHERE YOU BOUGHT THE

PRODUCT. PLEASE ENSURE THAT YOU HAVE A COPY OF THE ORIGINAL SALES RECEIPT AS YOU MAY BE ASKED TO PROVIDE THIS TO THE RETAILER. IF YOU DISCOVER A BUG OR ERROR IN THE PRODUCT, PLEASE CONTACT THE TECHNICAL SUPPORT TEAM AT SEGA (DETAILS SET OUT BELOW) AND INFORM THEM OF THE DIFFICULTY YOU ARE EXPERIENCING WITH THE PRODUCT. THE RETAILER OR SEGA WILL EITHER REPAIR OR REPLACE THE PRODUCT AT THEIR OPTION. ANY REPLACEMENT PRODUCT WILL BE GUARANTEED FOR THE REMAINDER OF THE ORIGINAL GUARANTEE PERIOD OR NINETY (90) DAYS FROM RECEIPT OF THE REPLACEMENT PRODUCT, WHICHEVER IS LONGER. IF FOR ANY REASON THE PRODUCT CANNOT BE REPAIRED OR REPLACED, YOU WILL BE ENTITLED TO RECEIVE AN AMOUNT UP TO THE PRICE YOU PAID FOR THE PRODUCT. THE FOREGOING (REPAIR, REPLACEMENT OR THE PRICE YOU PAID FOR THE GAME SOFTWARE) IS YOUR EXCLUSIVE REMEDY. FOR THE AVOIDANCE OF DOUBT, THE LIMITATION OF LIABILITY SET-OUT IN SECTION 8 OF THIS AGREEMENT SHALL BE APPLICABLE TO THIS GUARANTEE.

17. OPEN SOURCE SOFTWARE AND THIRD PARTY SOFTWARE

THE GAME SOFTWARE INCLUDES AND/OR USES OPEN SOURCE SOFTWARE ("OSS") AND THIRD PARTY SOFTWARE ("TPS"). YOU AGREE TO BE BOUND BY LICENSE TERMS AS RESTRICTIVE AS THOSE CONTAINED HEREIN IN RESPECT OF THE OSS AND TPS CONTAINED IN THE SOFTWARE.

18. TECHNICAL PROTECTION MEASURES

This Product may be protected by anti-cheat/hacking software and/or Denuvo Anti-Tamper Protection Technology ("Denuvo Anti-Tamper Technology"). You hereby acknowledge and agree to the following regarding the Denuvo Anti-Tamper Technology:

- (a) the installation of the Product will cause the Denuvo Anti-Tamper Technology to be installed on your device;
- (b) the Denuvo Anti-Tamper Technology may limit the number of installations of the Product;
- (c) the Denuvo Anti-Tamper Technology may install on your device additional components required for copy protection;
- (d) during the installation and/or the first launch of the Product, an online connection may be required to activate the Product and the Denuvo Anti-Tamper Technology; and
- (e) certain files of the Denuvo Anti-Tamper Technology may remain even after the Product is uninstalled from your device.

In no event shall SEGA be liable to you in connection with the components that may be installed on your device relating to the Denuvo Anti-Tamper Technology.

If you disable or otherwise tamper with the Denuvo Anti-Tamper Technology, the Product may not operate properly and you are in material breach of this Agreement.

You can find out about Denuvo's privacy practices in its privacy policy: <https://irdeto.com/privacy/> (<https://irdeto.com/privacy/>)

19. FOR RESIDENTS IN THE UNITED STATES AND CANADA - BINDING ARBITRATION AND CLASS ACTION WAIVER

This Section 19 applies to you if reside in or acquired and use the Product in the United States or Canada.

Binding Arbitration: You and SEGA (each a "party" for purposes of this Section, and collectively "the parties") agree that all claims arising out of or relating to this Agreement (including its interpretation, formation, performance and breach), our relationship with each other, or your use of the Product shall be finally settled solely by binding arbitration unless the claim is within the exceptions described below. THIS AGREEMENT MEANS THAT YOU AND SEGA AGREE TO NOT HAVE SUCH CLAIMS RESOLVED IN A TRIAL BY A JUDGE OR JURY. This agreement applies to all kinds of claims, including legal, equitable, or statutory claims, under any legal theory. It also applies even after you stop using or delete, destroy, or otherwise no longer possess the Product. If you or SEGA brings a claim in court that is subject to arbitration under this section, either party can ask the court to order the parties to resolve the claim by arbitration. The arbitrator, and not a court, shall have the exclusive authority to decide whether any portion of this section is valid or enforcement, or whether it applies to a claim.

An arbitration proceeding shall be held before a neutral arbitrator and not a judge or a jury, so you and SEGA agree to give up the right to a trial before a judge or jury. An arbitration proceeding has different rules than a lawsuit in a court. For example, arbitration is less formal and usually provides for more limited information sharing between the parties in the process called discovery. After the arbitrator decides the outcome, that decision will be final and you or SEGA will generally not be able to change the outcome in a court.

This arbitration provision is made pursuant to a transaction involving interstate commerce, and the Federal Arbitration Act (the "FAA") shall apply to the interpretation, applicability, enforceability, and formation of this Agreement notwithstanding any other choice of law provision contained in this Agreement.

You and SEGA agree that the arbitration will be administered by JAMS in accordance with the provisions of its Comprehensive Arbitration Rules or Streamlined Arbitrations Rules, as appropriate, excluding any rules or procedures governing or permitting class actions. But if there is a conflict between this Agreement and the JAMS rules, then we will follow this Agreement. The JAMS Rules governing the arbitration may be accessed at <http://www.jamsadr.com/> (<http://www.jamsadr.com/>) or by calling JAMS at (800) 352-5267. Your arbitration fees and your share of arbitrator compensation shall be governed by the JAMS Comprehensive Arbitration Rules, but shall not incorporate the JAMS Class Action Procedures, and to the extent applicable, the Consumer Minimum Standards, including the then-current limit on arbitration filing fees. If the filing fee for the arbitration exceeds the cost of filing a lawsuit, SEGA will pay the additional cost. The parties understand that, in some instances, the costs of arbitration could exceed the costs of litigation. Each party will pay its own attorneys' fees and costs unless the claims allow for to the prevailing party to recover attorneys' fees and costs, in which case the arbitrator may award them under the applicable law. If either party unsuccessfully challenges the validity of the arbitrator's decision or award through a subsequent court case, the unsuccessful party shall pay the opposing party's costs and attorneys' fees associated with the challenge.

Location: The arbitration will take place in Los Angeles County, California or in the county or province where you reside. You and SEGA agree to submit to the personal jurisdiction of any federal or state court in Los Angeles County, California, in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator.

Class Action Waiver: The parties further agree that any arbitration or court proceeding shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. As a result:

- YOU CANNOT BRING A CLAIM AGAINST SEGA AS A PLAINTIFF OR CLASS MEMBER IN A CLASS ACTION OR ANY OTHER COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ACTION.
- AN ARBITRATOR CANNOT COMBINE YOUR CLAIMS AGAINST SEGA WITH ANY OTHER PERSON'S CLAIMS AGAINST SEGA INTO A SINGLE CASE.

If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then Section 19 shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

Exceptions to Agreement to Arbitrate: We agree that we each will still have the right to go to court to resolve the following claims:

- Claims about SEGA's intellectual property (for example, trademarks, trade dress, domain names, trade secrets, copyrights or patents).
- Claims related to piracy or tortious interference.
- Claims that are not subject to an arbitration agreement as a matter of law and are not preempted by federal law that would allow for an agreement to arbitrate.
- Claims in small claims court.

Any dispute not subject to arbitration under these exceptions shall be resolved by a court of competent jurisdiction subject to the venue requirements described in Section 20.

30 Day Right to Opt Out: You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in Section 19 by sending written notice of your decision to opt-out to the following address: SEGA, 140 Progress, Suite 100, Irvine, CA 92618; Attn. Legal & Business Affairs Department. The notice must include the following information:

- Your full name.
- Your address.
- The name of Product you purchased and the date you purchased it or, if no purchase was made, the date that you first accessed or used the Product.
- All usernames or identifiers you use to access or use the Product, if any.
- Your signature.

The notice must be sent within 30 days of purchasing the Product (or if no purchase was made, then within 30 days of the date on which you first access or use the Product and agree to these terms); otherwise you shall be bound to arbitrate disputes in accordance with this section. If you

opt-out of these arbitration provisions, SEGA also will not be bound by them.

20. MISCELLANEOUS

This Agreement represents the complete agreement between you and SEGA concerning the Product and supersedes all prior agreements and representations, warranties or understandings between you and SEGA (whether negligently or innocently made but excluding those made fraudulently), regarding the same subject matter.

If any part of the Agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty, disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect. Any failure by us to enforce or exercise any provision of the Agreement or related rights shall not constitute a waiver of that right or provision.

SEGA may assign this Agreement, in whole or in part, at any time. Notwithstanding, you may not assign, transfer or sublicense any or all of your rights or obligations under the Agreement without SEGA's express prior written consent.

SEGA's performance of the Agreement is subject to existing laws and legal process, and nothing contained in the Agreement is in derogation of SEGA's right to comply with governmental, court, and law enforcement requests or requirements relating to your use of the Product or information provided to or gathered by SEGA with respect to such use. In addition to any excuse provided by applicable law, we shall be excused from liability for non-delivery or delay in delivery of the Product arising from any event beyond our reasonable control, whether or not foreseeable by either party, including but not limited to, labor disturbance, war, terrorism, fire, denial of service attack, internet outages, accident, adverse weather, inability to secure transportation, governmental act or regulation, and other causes or events beyond our reasonable control, whether or not similar to those which are enumerated above.

Nothing in this Agreement gives or claims to give to any third party any benefit or right to enforce any term of this Agreement.

The parties agree that all correspondence relating to this Agreement shall be written in the English language.

Applicable Law: Any dispute arising out of or related to this Agreement shall be governed in all respects by the laws of the State of California of the United States of America without regard to conflict of law provisions. If you are a resident of the United States or Canada, the United States Federal Arbitration Act governs the interpretation and enforcement of the agreement to arbitrate and class action waiver provisions of Section 19.

Venue for Disputes Not Subject to Arbitration: Any dispute not subject to arbitration under Section 19 of this Agreement must be resolved exclusively in either the Superior Court of the State of California for Los Angeles County or the United States District Court for the Central District of California at Los Angeles.

You may contact SEGA Customer Service at the following address:

SEGA
Customer Service Department
27 Great West Road
Brentford
Middlesex
TW8 9BW
Email: help@sega.co.uk (mailto:help@sega.co.uk)
Website: help.sega.com

UNLESS OTHERWISE NOTED, THE EXAMPLE COMPANIES, ORGANISATIONS, PRODUCTS, PEOPLE AND EVENTS DEPICTED IN THE PRODUCT ARE FICTITIOUS AND NO ASSOCIATION WITH ANY REAL COMPANY, ORGANISATION, PRODUCT, PERSON OR EVENT IS INTENDED OR SHOULD BE INFERRED.

BY CONTINUING TO USE THE PRODUCT, YOU HEREBY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THE FOREGOING AGREEMENT AND AGREE THAT YOUR USE OF THE PRODUCT IS AN ACKNOWLEDGMENT OF YOUR AGREEMENT TO BE BOUND BY THE AGREEMENT.

SCHEDULE

MODDING TERMS

Where possible, SEGA encourages its users to express their creativity and enhance the experience of certain games through the creation of modifications (including but not limited to new items, weapons, characters, models, textures, levels, story lines, music and game modes) for use with the Product ("Mod" or "Mods"). In order to protect SEGA, the Product, any third party licensors that have licensed intellectual property to SEGA for use in the Product, and users that create Mods, the following terms apply ("Modding Terms"). Please review these rules carefully before you create, share, distribute, use or otherwise exploit any Mods.

Please note that SEGA prohibits the creation of Mods for certain games. This may be due to third party licensing issues which prevent SEGA from allowing its users to create Mods. In such instances, you shall not be entitled to create Mods for that Product and the Modding Terms shall not apply.

You can find out which Products allow for the creation of Mods by visiting the applicable Modding Page (as defined below). If you are unsure as to whether the creation of Mods is prohibited for your Product, please contact SEGA's Customer Service Department (customersupportuk@sega.co.uk (<mailto:customersupportuk@sega.co.uk>)). Please note that laws in your respective jurisdiction may require that you are of a certain age in order to enter into legally binding arrangements such as the Modding Terms. In the event that you are under the required age, you may not create any Mods, unless your parent or legal guardian has reviewed and agreed to the Modding Terms. The license we provide to you to create and use Mods with the Product may be revoked if you breach the Modding Terms.

1. OWNERSHIP

You acknowledge that you shall have no ownership or other proprietary interest in the Product and/or any Mods which you create, except as expressly stated herein. Any Mods that you create shall belong to you only insofar as the Mod contains your original creative work. You acknowledge and agree that all right, title and interest in any elements of the Mod which represent, comprise, derive or are based upon any intellectual property rights which subsist in the Product (including but not limited to any computer code, themes, objects, characters, character names, stories, dialogs, catch phrases, locations, concepts, artwork, images, animation, sounds, musical compositions, audio-visual effects or text), including without limitation copyrights, trademarks and other intellectual properties therein and/or related thereto, whether or not registered or registrable, are owned by, or for the benefit of SEGA and its licensors.

2. LICENSE

Subject to your compliance with the terms and conditions of the EULA and the Modding Terms, SEGA hereby grants you a non-exclusive, non-transferable, limited, fully revocable right and license to install, access and use the in-game modding tools, any graphical assets and/or other related tools provided by SEGA ("Modding Tools") solely and exclusively to create Mods for use with the Product and to publish those Mods on the applicable SEGA approved third party Modding webpage for the Product ("Modding Libraries"). Please note that certain Modding Libraries may be owned and operated by third parties such as Valve (<https://store.steampowered.com/> (<https://store.steampowered.com/>)) and EPIC (<https://www.epicgames.com/store/en-US/> (<https://www.epicgames.com/store/en-US/>)). (collectively, the "Third Party Platforms") and may be subject to additional terms and conditions published by those Third Party Platforms. You acknowledge and agree that your use of the Modding Tools is at your own discretion and risk and that you will be solely responsible for any obligations, damages or losses which arise from your registration, access and use of the Modding Tools.

You agree to use the Modding Tools to create Mods in a manner that is consistent with this Agreement, and with any additional terms and conditions published by the Third Party Platforms, including an agreement that you shall not sell, rent, lease, license, distribute or otherwise transfer or exploit the Modding Tools and/or Mods or any copies thereof, for commercial gain or otherwise, except as permitted by this Agreement and/or the Third Party

Platforms. A breach of the provisions of this license shall constitute a material breach which has the effect of terminating the EULA (including the Modding Terms) and which may subject you to civil and criminal liability.

In consideration of the above grant of rights, you hereby grant SEGA, its affiliates, its licensors and any Third Party Platforms all the necessary consents, clearances and an irrevocable, sub-licensable, worldwide, royalty-free, perpetual license and right to use, reproduce, modify, adapt, display, distribute or otherwise exploit any Mod which is uploaded to the Modding Libraries in any way SEGA and/or any Third Party Platforms see fit for use with the Product. You waive and agree never to assert against SEGA or its affiliates, licensors, or the Third Party Platforms any moral rights or similar rights, however designated, that you may have in or to any Mods.

3. CONTENT RESTRICTIONS

Any element which you include in your Mod (except for the Modding Tools) must be your own original work created by you or you must have obtained the necessary permissions to use such materials. You are responsible for the content of any Mods which you create and publish on the Modding Libraries and shall warrant and represent to SEGA and any Third Party Platform that your Mods do not contain:

1. any materials which are discriminatory, racist, obscene, libelous, offensive, illegal, defamatory, inappropriate, invasive, or likely to adversely affect the reputation or goodwill of SEGA and/or its licensors;
2. any resemblance to any recognizable third party brand, character or personality, including but not limited to any trademark, logos or third party assets except for those assets provided to you by SEGA within the Modding Tools as necessary for the creation of the Mod for use with the Product;
3. any assets from other games published by SEGA and its affiliates or any other third party without permission, where such use constitutes an infringement of third party intellectual property rights;
4. any materials which do not comply with any additional instructions provided to you by SEGA and/or the Third Party Platforms as published on the Modding Libraries or within the Modding Tools, which may be updated by SEGA and/or the Third Party Platforms from time to time;
5. any malicious code, including viruses, spyware, Trojan horses, worms, time bombs, cancelbots, corrupted data, or other content that contains malicious code or in any way damages or interfere with the operation of the Product.

SEGA does not pre-vet or monitor any Mods which are uploaded to the Modding Libraries and does not monitor, endorse or approve any Mods. You are solely responsible for your Mod and may be held liable for any Mod which you create and upload to the Modding Libraries. SEGA and the Third Party Platforms reserve the right, in their sole and final discretion, to remove any Mods from the Modding Libraries which violates the content restrictions above. To the maximum extent permitted by applicable law, SEGA does not assume any responsibility or liability for the Mods or for removal of Mods, or any failure or delay in removing such Mods.

4. INDEMNIFICATION

You agree to indemnify, defend and hold SEGA and its parent companies, affiliates, licensors, licensees, contractors, officers, directors, employees, agents and the Third Party Platforms harmless from any damages, losses, cost and expenses (including attorneys' fees) arising directly or indirectly from any acts and omissions associated with the use of any Mod which you create and publish, including but not limited to any allegation that the Mod violates the copyright, trademark, trade secret, privacy or other intellectual property or other rights of any third party, or any other violation of these terms.

5. OUR LIABILITY

WE PROVIDE THE PRODUCT, THE MODDING TOOLS AND ANY MODS ON AN "AS IS" BASIS AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. YOU ACKNOWLEDGE AND AGREE THAT YOUR EXCLUSIVE REMEDY FOR ANY DISPUTE WITH SEGA IS TO STOP USING THE PRODUCT (INCLUDING BUT NOT LIMITED TO THE MODDING TOOLS AND/OR ANY MODS). IN NO EVENT SHALL SEGA AND ITS LICENSORS, OR ANY THIRD PARTY PLATFORMS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PRODUCT, THE MODDING TOOLS AND ANY MODS. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES AND/OR PERSONAL INJURY, DEATH, FRAUD AND/OR CERTAIN IMPLIED WARRANTIES, IN SUCH STATES OR JURISDICTIONS, THE LIABILITY OF SEGA AND ITS LICENSORS SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

6. TERMINATION

SEGA and the Third Party Platforms reserve the right to suspend access to, or terminate the license for, any Mods, Modding Tools and the Modding Libraries at any time for any reason. If you commit any breach of clauses 2 and 3 of the Modding Terms, your license to use the Product, the Modding Tools and/or any Mods shall automatically terminate, without notice. Your grant of the license to SEGA to use any Mods which you create and publish to the Modding Libraries shall survive termination.

Because SEGA would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that SEGA shall be entitled to take such action as may be required, including seeking an injunction and other equitable remedies, in addition to any other remedies available to it under the applicable law.

7. MISCELLANEOUS

This Agreement represents the complete agreement between you and SEGA concerning Mods and the Modding Tools and supersedes all prior agreements and representations, warranties or understandings between you and SEGA (whether negligently or innocently made but excluding

those made fraudulently), regarding the same subject matter. SEGA reserves the right to amend or modify these terms at any time, in any manner, without any liability to SEGA and at SEGA's sole discretion. Any amendment or modification to these terms shall be made available at <https://www.sega.com/EULA> (<https://www.sega.com/EULA>).

Exhibit D

Declaration of Dustin Hensley

I, Dustin Hensley, provide the following declaration:

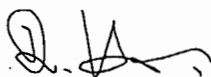
1. I have personal knowledge of the facts in this witness statement. My testimony on examination under oath about these facts would be the same as set forth in this witness statement.
2. My permanent address is:
1340 Gray Ave Apt 17
Yuba City, CA 95991-3221
3. I have played SEGA's mobile games in California, including Sonic the Hedgehog, within the last ten months. During that period, I have seen at least ten advertisements while playing SEGA mobile games.
4. I am interested in learning about new products and services that are advertised on SEGA's mobile games. When I am playing SEGA's mobile games, I do not want SEGA's advertising partners to discriminate against me by using my age or gender to determine or influence which advertisements I see or cannot see.
5. I have retained Consovoy McCarthy PLLC, Troxel Law LLP, and Lawfair LLC to pursue my claims against SEGA, including claims in arbitration, related to or arising from SEGA's sex and/or age discrimination in connection with its advertising and content practices.
6. I authorize SEGA to discuss my usage information to the extent necessary to identify my user data and the amounts I spent, if any, on any premium or upgraded services or any other SEGA products or services with my attorneys at Consovoy McCarthy PLLC, Troxel Law LLP, and Lawfair LLC in connection with my claims.

Initials

DK

I affirm that these facts are true under penalty of perjury under the laws of the United States.

Signature



Dated:

02/29/2024

08/22/2024